

**YACHT CLUB CONDOMINIUMS HOMEOWNERS ASSOCIATION
BOARD OF DIRECTORS MEETING**

July 25, 2023

I. CALL TO ORDER

The meeting was called to order at 5:18 via Zoom.

Board members in attendance were:

Ann Gassman
John Koster
Charlie Santaularia
Seth Lippman

Owners in attendance were:

Leona McCormick, unit 28
Bethany Parks, unit 50
Ryan Worrell, unit 40
Fred Urban, unit 29
Sara Jones, units 11 and 16
Liesel Twenhafel, unit 32
Margarita Mascola and Michael Davidson, unit 25
David Brick, unit 10
Mike Tibbals, unit 24
Bobby Kline, unit 5
Susan Haley, unit 19
Helen Hayes, unit 17
Heather and Ty Berry, unit 22
Rachel Lunney, unit 31
Aaron Steck, unit 34
Rose Braden, unit 9
Jerrod Johnson, unit 49
Brett Waters, unit 13
Susan Connolly, unit 26

Representing Summit Resort Group were Kevin Carson and Kevin Lovett.

II. BOILER REPLACEMENT / SPECIAL ASSESSMENT DISCUSSION

The primary purpose of this meeting was to discuss the Boiler Replacement Project and the Special Assessment.

Kevin Carson provided a recap of the boiler situation and what has led up to the current status of boiler replacement and special assessment.

Kevin noted that in 2022 one of the boiler rooms in the Tenderfoot Building experienced catastrophic failure leading to months in which multiple units did not have heat. This led to a major insurance claim. During this project a number of items were found to include:

- The Tenderfoot building, per original construction, has common area boiler rooms which house a boiler and water heater for each unit. There are 4 boilers and 4 water heaters in each of these common boiler rooms. This is a different set up from the other buildings in which each unit has its own boiler and water heater located within the unit.
- Upon review of the Yacht Club Declarations (according to review by two law firms, Altitude Law and Richmond Summit Law), it was found that the HOA is to maintain the boilers / water heaters in the Tenderfoot Building as they are considered “common” elements.
- Most of the boilers/ water heaters in the Tenderfoot building are old, unserviceable, and out of code. Additionally, the location of the water heaters/ boilers in the common rooms is such that it prohibits accessing the other boilers/ water heaters to complete service/ replacement.
- With the existing equipment being out of code, this prevents contractors’ ability to pull permits and properly replace the mechanicals to code. In fact, upon inspection of the mechanical room by contractors the room was “red tagged” and shut down to use.
- As an insurance claim was filed for the loss, the insurance company has reviewed the boiler rooms and is aware that the mechanicals are old and out of code. The insurance company has noted that future losses from the mechanical rooms will likely not be covered as the HOA is aware of the poor condition and out of code status.

The current status of the Tenderfoot building boiler replacement was discussed. Replacement of the Mechanical rooms (boiler and water heater for each unit) is currently underway.

The status of the special assessment was discussed. It was noted that per legal counsel and per the Governing Documents, the mechanical rooms in the Tenderfoot Building are common elements and thus repairs/ replacement expense of the HOA split amongst all Owners. The special assessment has been billed to all Owners.

III. DECLARATION AMENDMENT

It was noted that an amendment to the Declarations is currently underway. The current Declarations are original, from the 1960’s and in need of updating. Mechanical room responsibility is an item in discussion with the proposed Declaration Amendment. Owners are encouraged to review the draft Declaration Amendment once sent out and participate in the process (the Amendment will require Owner approval) as this will help to iron out mechanical room responsibility.

IV. RESPONSES FROM OWNERS

The Board acknowledged the responses received from the Owners. The following “FAQ” were reviewed with responses:

1. Why is the special assessment needed? - **Without a special assessment this project would leave the Association with a depleted reserve fund which could result in an emergency special assessment in the future.**
2. Where in the condo declaration/deeds does it state all homeowners are responsible for the common boiler areas (boilers/hot water heaters) that service these 11 units? - **Section 1 – definitions.**

3. What is the impact of not making this change? - **Potential for a catastrophic loss of equipment in another boiler room this winter leaving units without heat or hot water. Possible loss of insurance coverage due to failure to maintain common elements.**
4. What is the breakdown of the \$250k? - **\$19,500 for 1bd units. \$20,500 for 2bd units. This includes a complete reworking of the entire room including electrical, drywall, unit zone valves, plumbing, gas lines, ect.**
5. What contractor has been chosen to do the work, why were they chosen, were there other bids? - **Summit Professional Services. We received other estimates, but none were complete. SPS already performed high quality work in one boiler room.**
6. Why was there no upfront communication/discussion with the homeowners on this special assessment? -**This has been discussed in almost every board meeting for the last year.**
7. Why does this change need to be done now vs delaying to a future year? - **Not performing the work now could result in a catastrophic loss this winter.**
8. What happens if payments are not made by all units? - **Units that do not pay will be assessed late fees and interest per the collection policy.**
9. Why are we replacing newly installed boilers, i.e.. Unit1? - **Newly installed boilers were not properly permitted. Due to code requirements and clearances in the room they will not work with the new configuration.**
10. Why was this not mentioned in the recent budget ratification meeting or called out on the budget report? - **This is not an operating expense and was not part of the operating budget.**
11. Why did we do a special assessment vs, using reserves, increasing the dues? - **The project is being funded via reserves. The special assessment is billed over 36 months to replenish the reserve fund.**
12. What other condo assets do homeowners share which could likely result in a special assessment? - **Any parts of the property outside of the unit envelope.**
13. Are there other special assessments being planned in the next 1-3 years? – **No other planned/ known assessments at this time. The Association is conducting a reserve study with the goal of adequately funding reserves to avoid another special assessment.**

It was also noted that Board of Director decision on the mechanical room repairs was difficult as there is viewed separation between what is considered “fair” and what is stated in the Governing Documents/ Declaration. It was noted that legal counsel stated that the Board has fiduciary duty to uphold the Declaration and despite the Board acting in good faith over the past many years, now that the responsibility as called for in the Declaration is known, the Board has duty to move forward in accordance with the Declaration as it is written.

V. OWNER FORUM

All Owners in attendance were given the opportunity to speak/ ask questions. Summary of Owner comments / questions follows:

An Owner asked what the vote of the Board was (for mechanical room replacement proceedings and assessment) and if any were in the Tenderfoot Building and, did they recuse themselves from the vote.

-it was noted that the Board vote passed 3-2 in favor of complying with the Declaration, having the HOA proceed with replacements of the mechanical rooms and levying the special assessment to replenish the reserves. It was additionally noted that one of the Board members that does live in the Tenderfoot Building did vote in favor.

An Owner asked if legal counsel was consulted.

-yes

Multiple Owners noted that communication was poor and requests improved communication to include receiving email notices of when Board meetings are to be held.

-the Board agreed to improve communications and to also send email to Owners with notice of Board meetings.

An Owner asked if in conjunction with replacement of the considered "common" mechanicals, are any items being replaced that are considered "individual" unit items at the HOA expense.

-no, all items being replaced in the mechanical rooms are common

An Owner had question with regard to the Declaration filings on the HOA website.

-it was noted that filing 3 declarations are on the website. Filing 3 was the final version created and that filing 1 and 2 declarations are the same as filing 3.

An Owner (multiple Owners) thanked the Board for their work and acknowledged that this is a difficult situation with Declaration from 1960...

An Owner noted that Tenderfoot Building Owners have added benefit as they do not have mechanicals located "within" their units, so not taking up the space.

An Owner noted that they support modifications to Common areas, but, the boilers and mechanicals benefit only the unit they serve and should be an expense of only that owner.

-It was noted that with the proposed Declaration Amendment, Tenderfoot Building mechanical rooms would remain common elements, but, a provision would be included in the amended Declaration to state that individual Owners will be responsible for the cost for any maintenance /repair of the mechanicals serving their unit.

An Owner asked if the Declaration can be amended "prior" to the Tenderfoot Building mechanical room work.

-Unfortunately, no, as the mechanical room work must be completed as soon as possible, work is currently underway, and the Declaration Amendment process can take many months.

An Owner asked if the Declaration can be amended to move maintenance / replacement responsibility of the Gold Run and Corner Building mechanicals to that of the HOA.

-Likely not, as this would require redefining the boundaries of the units. Currently, the Tenderfoot Building mechanical rooms are considered "common", while the Gold Run and Corner Building mechanical rooms are located within the units and considered part of the unit.

An Owner (a couple) noted that within recent years they paid to install new water heater/ boilers. Now, those are being removed and replaced. Can we have our old equipment to sell?

-This will be investigated. The project is currently underway, so it is likely that some of the old equipment has already been disposed of. Efforts will be made to save old equipment for the Owners moving forward.

An Owner asked if multiple bids were received, and what was the cost range.

-Yes, multiple bids received. The cost range was between \$170k and \$230k with varying scopes of work. Upon review of proposals, the Board awarded the contract to Summit Professional Services.

An Owner asked how much was in the Reserve account, and why can't this project be funded from Reserves.

-There is \$430,000 in the Reserve account. The mechanical room project is actually being funded with the Special assessment funds planned to replenish the reserve fund. There are multiple possibly projects looming that will deplete reserve funds to include asphalt work, sewer line work and flue work.

An Owner asked what the desired balance of the reserve account is and if any additional future special assessments are planned.

-It was noted that a professional reserve study is underway; the reserve study is expected to be completed within the next 30 days. The reserve study will calculate the desired reserve balance and will call out any future special assessments.

An Owner asked when the last reserve study was completed and will the new reserve study be distributed to Owners.

-The last reserve study was completed in 2016, prior to the exterior remodel project. Yes, the reserve study will be distributed to Owners.

An Owner asked, if there is too much money in reserves, will the Board consider stopping the assessment.

-Yes, this would be considered.

An Owner asked what happens if someone does not pay the assessment.

-The HOA Collection policy will be followed which includes late fees, interest and eventual foreclosure on the unit.

An Owner noted that Special Assessments are no fun, especially when they do not benefit you directly, but are for the greater good of the Association. The Owner noted that there have been many projects / assessments over the years which do not benefit all Owners.

An Owner asked why the Assessment was brought forth immediately with such a large reserve balance. The Owner requested that the Assessment be delayed.

An Owner noted that he provided bids for a modern solution which included only 1 boiler and 1 water heater per mechanical room serving all 4 units.

-The Board noted this solution was considered, but upon review Board did not feel this was the best direction.

An Owner asked if the Board considered moving away from boilers and installing electric heat.

-Yes, this was considered but not chosen due to significant cost

An Owner asked if the boiler and water heater can be put “in” the Tenderfoot Building units as opposed to being located in the common rooms.

-This was discussed, would be a very large expense and would require legal document revision.

An Owner requested a schedule of replacements in order to notify their unit occupants.

-Yes, Owners will be notified of the work ahead of time.

An Owner noted that the cost for the work should be assessed to only those unit Owners benefiting from the new mechanicals.

-It was noted that this was a difficult decision from the Board and directed by legal counsel.

An Owner noted that more work needed to be done as he is not interested in paying.

A number of Owners thanked Kevin Carson for his good work and wished him well with his new opportunity.

The Board thanked the Owners for participating. The Board is committed to improved communications and encouraged Owners to participate in the Declaration Amendment process.

VI. NEXT MEETING

The Annual Meeting will be held Saturday August 12th. The Board will meet prior (date and time TBD).

VII. ADJOURNMENT

With no further business, the meeting was adjourned at 7:03 pm

Approved: 8-1-23